

Remarks/Arguments:

The above Amendments and these Remarks are in reply to the Office Action mailed February 13, 2008.

Claims 1-33 and 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claims 1-33 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The examiner states that the feature that the phrase “such that the customer does not have rights to run the previous version of the software” is not shown or made obvious. Support for this limitation is given by paragraph [0034] of the present invention’s specification that state that “when a new upgraded/downgraded license is created, in one embodiment, the old license is inactivated within the database”.

Claims 1, 2, 5, 7-10, 12, 13, 16, 18, 19-21, 23, 24, 27, 29-31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldis et al. (U.S. Publication No.: 2004/0039916) in view of Stupek et al. (U.S. Patent No.: 5,960,189).

Claims 1, 12, 23 and 27, as previously amended, state that the disabling of the first license key is “such that the customer does not have rights to run the previous version of the software”. This is not shown in the cited prior art.

For example, Stupek, Jr. et al. states in column 5, line 64 to column 6, line 42, that:

“Before the packages are installed to the targets, the agent 21 may store 115 the older revision levels of the resources on a local hard disk 23. As a result, the user always has access to previous versions of the resources. Maintaining old versions of upgraded resources allows the user to downgrade the resource, if needed, in the future.”

The purpose of Stupek, Jr. et al. is to allow access to versions of the software and it does not suggest removing the rights to run a preview version of the software. For this reason, the claims are believed to be novel and non-obvious over the cited prior art.

Claims 3, 4, 6, 11, 14, 15, 17, 22, 25, 26, 28 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldis et al. (U.S. Publication No.: 2004/0039916) in view of Stupek et al. (U.S. Patent No.: 5,960,189) and in further view of Watanable et al. (U.S. Publication No.: 2003/0182146).

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: March 11, 2008

By: /Joseph P. O'Malley/
Joseph P. O'Malley
Reg. No. 36,226

FLIESLER MEYER LLP
650 California Street, 14th Floor
San Francisco, California 94108
Telephone: (415) 362-3800